UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION II

9/21/90

200396

IN THE MATTER OF

SCIENTIFIC CHEMICAL PROCESSING SITE
CARLSTADT, BERGEN COUNTY, NEW JERSEY

AIR PRODUCTS & CHEMICALS, INC.
AKZO COATINGS INC.
(formerly RELIANCE UNIVERSAL, INC.)
ALLIED CORPORATION
AMERICAN CYANAMID
(including LEDERLE LABORATORIES)
ASHLAND OIL, INC.
(including ASHLAND CHEMICAL CO.)
AT&T TECHNOLOGIES, INC.
(including WESTERN ELECTRIC CO.)
BENJAMIN MOORE & CO.
BORDEN, INC.
(formerly BORDEN CHEMICAL)
CHEMICAL POLLUTION CONTROL, INC.
CIBA-GEIGY CORPORATION
CONGOLEUM CORPORATION
(formerly CONGOLEUM INDUSTRIES, INC.)
CUSTOM CHEMICALS CO., INC.
DELAWARE CONTAINER CO., INC.
DRI-PRINT FOILS, INC.
E.I. DUPONT DE NEMOURS & CO.
EXXON COMPANY, U.S.A.
GAF CORPORATION
GANES CHEMICALS, INC.
GENERAL ELECTRIC COMPANY
GENERAL MOTORS CORPORATION
HOFFMAN LAROCHE COMPANY
INMAR ASSOCIATES, INC.
INMONT CORPORATION
LITTON INDUSTRIES
(for FITCHBURG COATED PRODUCTS)
M & T CHEMICALS, INC.
MARISOL, INC.
MERCK & CO., INC.
MINNESOTA MINING & MANUFACTURING CO.
MOBAY CHEMICAL CORPORATION
(formerly HARMON COLORS CORPORATION)
MOBIL CHEMICAL CO.
NEPERA, INC.
NEW ENGLAND LAMINATES CO., INC.
PERK CHEMICAL CO., INC.
PERMACEL

ADMINISTRATIVE ORDER

Index No.II CERCLA-
00116

PFIZER, INC.
RANDOLPH PRODUCTS CO.
REVLON, INC.
SCHENECTADY CHEMICALS, INC.
SCIENTIFIC CHEMICAL PROCESSING, INC.
SMITHKLINE BECKMAN CORPORATION
TRANSTECH INDUSTRIES, INC.
(formerly SCIENTIFIC CHEMICAL TREATMENT CO., INC.)
UPJOHN CORPORATION
UNION CARBIDE CHEMICALS & PLASTICS CO. INC.
(formerly UNION CARBIDE CORPORATION)

Respondents

Proceeding Under Section 106(a) of the Comprehensive Environmental Response, Compensation and Liability Act, as amended, 42 U.S.C. §9606(a).

JURISDICTION

1. This Administrative Order ("Order") is issued to the Respondents by the United States Environmental Protection Agency pursuant to the authority vested in the President of the United States by Section 106(a) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 ("CERCLA"), as amended by the Superfund Amendments and Reauthorization Act of 1986, 42 U.S.C. §9601 et seq. This authority was delegated to the Administrator of the EPA by Executive Order 12580, dated January 23, 1987, and duly redelegated to the Regional Administrator of EPA, Region II. Notice of this Order has been given to the New Jersey Department of Environmental Protection ("DEP") pursuant to Section 106(a) of CERCLA, 42 U.S.C. §9606(a).

DEFINITIONS

2. As used in this Order, unless the context clearly requires some other meaning, the following terms shall have the following meanings:

a. CERCLA shall mean the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended by the Superfund Amendments and Reauthorization Act of 1986, 42 U.S.C. §9601 et seq.

b. EPA or USEPA shall mean the United States Environmental Protection Agency.

c. The SCP Carlstadt Site or the Site shall mean the real property (and all structures, soil, liquids, solids, sludges and containers thereon) which is approximately 5.9 acres in size and which has a street address of 216 Paterson Plank Road, Carlstadt, New Jersey, and which occupies Lots 1, 2, 3, 4, and 5 in Block 124 on the Tax Map for the Borough of Carlstadt, Bergen County, New Jersey. A map indicating the location of the Site is shown on Attachment 1 to this Order. The SCP Carlstadt Site or the Site shall also mean any place located outside the legal boundaries of the Lots identified above, into which hazardous substances may have migrated from any or all of Lots 1 through 5, identified above.

d. DEP shall mean the New Jersey Department of Environmental Protection.

e. Design Documents shall mean those documents, including all plans, specifications, engineering drawings and other documents describing facilities to be constructed at the Site, which will be prepared by the Respondents or their agents, and which are approved by EPA, to implement the Interim Remedy selected in the ROD issued for the Site by the Regional Administrator of EPA Region II on September 14, 1990.

f. Facility Coordinator shall mean the person designated by the Respondents who will be charged with the duty of being at all times knowledgeable of the performance of all work performed pursuant to this Order.

g. First operable unit zone or FOU zone shall mean all areas and points encompassed within the outer legal boundaries of the SCP Carlstadt Site (i.e., anywhere within Lots 1 through 5 in Block 124 in the Borough of Carlstadt, Bergen County, New Jersey) and extending from the ground surface of the Site down to and into the clay-silt layer which is alleged to exist at a depth of approximately fifteen(15) feet beneath the surface of the Site.

h. Hazardous substance shall mean any substance that falls within the definition of a "hazardous substance" as that term is defined in Section 101(14) of CERCLA, 42 U.S.C.§9601(14), and shall also mean any mixture(s) containing any such hazardous substance(s) at any concentration(s).

i. Inmar shall mean Inmar Associates, Inc., a corporation formed in the State of New Jersey on or about May 31, 1969 with Marvin H. Mahan as President and which has its principal place of business at 1703 East Second Street, Scotch Plains, New Jersey.

j. Interim Remedy shall mean the remedy selected for the SCP Carlstadt Site in the Record of Decision signed by the Regional Administrator of EPA-Region II on September 14, 1990.

k. National Contingency Plan or NCP shall mean the National Oil and Hazardous Substances Pollution Contingency Plan promulgated by EPA pursuant to Section 105 of CERCLA, 42 U.S.C. §9605, at 40 C.F.R. Part 300, and all amendments or modifications thereto.

l. Pollutant or contaminant shall have the meaning of that term as defined in Section 101(33) of CERCLA, 42 U.S.C. §9601(33).

m. Respondents shall mean the parties as named in the caption to this Order, and includes their officers, employees, agents, subsidiaries, assigns and successors.

n. ROD shall mean the Record of Decision which was signed by the Regional Administrator of EPA - Region II on September 14, 1990, which selected the Interim Remedy for the Site.

o. SCP shall mean Scientific Chemical Processing, Inc., a corporation formed in the State of Delaware on or about December 10, 1970 with Leif Siamond as President.

p. SCTC shall mean the Scientific Chemical Treatment Company, Inc., a corporation originally formed in the State of Delaware on or about November 4, 1965, with Marvin H. Mahan as President and Robert J. Meagher as Secretary/Treasurer; on or about February 11, 1966, SCTC registered in the State of New Jersey with the same corporate officers and with its principal place of business at 60 Prince Street, Elizabeth, New Jersey.

q. Scientific shall mean Scientific, Inc., the corporation formed by name change of SCTC on or about March 24, 1972.

r. Statement of Work or SOW shall mean the document appended to this Order as Attachment 8.

s. Work shall mean any activities of any type required by the terms of this Order, including any activities of any type which are necessary prerequisites or corequisites for the performance of any action required by this Order.

PARTIES BOUND

3. This Order shall apply to and be binding upon the Respondents, their principals, officers, agents, directors, employees, subsidiaries, successors and assigns.

FINDINGS

Site Background

4. The Site is included on the National Priorities List ("NPL"). The NPL, codified at 40 CFR Part 300, Appendix B, has been promulgated pursuant to Section 105(a)(8)(B) of CERCLA, 42 U.S.C. § 9605(a)(8)(B).

5. The Site is bordered by a waterway, Peach Island Creek, on the northwest, by Paterson Plank Road on the southeast, by Gotham Parkway on the southwest and by a commercial establishment on the northeast.

6. Peach Island Creek is a tidal waterway. Much of the area in the vicinity of the Site contains natural tidal wetlands. The Site is located within the flood plain of Peach Island Creek.

7. The area in the vicinity of the Site is currently zoned for light industrial uses by the Hackensack Meadowlands Development Commission. Active commercial facilities, including a bank and a new office building, are located in the immediate vicinity of the Site.

8. The existing land use classification for the Site and the land in the vicinity of the Site would also allow hotels and restaurants to operate in the area. Workers, commuters and other members of the general public frequently use Paterson Plank Road and Gotham Parkway which adjoin the Site.

9. A residence is located approximately 500 feet northeast of the Site.

Site Geology/Hydrogeology

10. The following three (3) aquifers exist beneath the surface of the Site: the water table aquifer; the till aquifer and the bedrock aquifer.

11. The water table aquifer is located one to two feet beneath the surface of the Site. The elevation of this aquifer is approximately five feet above the mean elevation of Peach Island Creek which adjoins the Site.

12. The water table aquifer flows through the Site into Peach Island Creek. The estimated average discharge rate of this aquifer from the Site into Peach Island Creek exceeds 300 cubic feet/day.

13. Peach Island Creek is a shallow tidal waterway which flows into Berrys Creek downstream from the Site.

14. The Site receives more than six (6) million gallons of precipitation each year. Some of this influent infiltrates down into the water table and facilitates migration of contaminants out of the FCU zone into Peach Island Creek. This influent also assists in driving contaminants from the water table down into the till aquifer beneath it.

15. The till aquifer is located beneath the water table aquifer. A hydraulic gradient exists between the water table and the till aquifers. This gradient tends to drive fluids and contaminants downwards from the water table aquifer into the till aquifer. The till aquifer flows towards the northwest from the Site.

16. The bedrock aquifer lies beneath the till aquifer. These two(2) aquifers are hydraulically connected.

17. Municipalities in the area use the bedrock aquifer as a source of public water supply. A number of commercial establishments also draw waters from the bedrock aquifer for various purposes.

Site Owners and Operators

18. In 1965, SCTC was incorporated in the State of Delaware for the purposes of dealing with chemicals and their byproducts and treating waste and waste material.

19. In 1966, SCTC registered in the State of New Jersey for the stated purposes of dealing in chemicals and their byproducts and acquiring, treating and disposing of waste of every kind and nature through every method and means whatever.

20. During the late 1960s, SCTC operated an industrial waste handling, treatment, and disposal enterprise at the Site. During the course of its business, SCTC received, handled, treated, stored and disposed of a wide variety of industrial and chemical wastes, including many hazardous substances, pollutants and contaminants, at the Site.

21. On or about October 1970, SCTC ceased its waste operations at the Site.

22. On or about October 1970, SCP acquired the assets and equipment of SCTC at the Site. About this time, SCP also executed a lease with Inmar to occupy the Site. Thereafter, SCP continued waste handling, storage, treatment and disposal

operations at the Site. These operations were the same or similar to those of SCTC, its predecessor at the Site.

23. Throughout the 1970s, SCP handled, treated, stored and disposed of a wide spectrum of industrial wastes at the Site. These wastes included liquids, solids and sludges containing solvents, Polychlorinated Biphenyls ("PCBs"), metals, base neutrals, volatile organic solvents ("VOCs") and numerous other pollutants or contaminants from industrial processes. During these operations, many hazardous substances were released directly onto the soil at the Site and migrated into the underlying aquifers and into Peach Island Creek.

24. In the normal course of its operations, SCP picked up a variety of liquids, solids, sludges and other industrial waste products from customers located in New York, New Jersey, Pennsylvania, Delaware, Connecticut and possibly other states. SCP and/or SCP agents picked up these waste materials in bulk using tanker trucks, in drums or other containers and by other means from facilities owned and/or operated by the SCP clientele. SCP routinely transported the liquids, solids and sludges which it received from its customers to the Site.

25. SCP ceased operations at the Site about 1980.

26. On or about March 7, 1972, SCTC caused its corporate name to be changed from the Scientific Chemical Treatment Company, Inc. to Scientific, Inc.

27. On or about June 17, 1986, Scientific, Inc. caused its corporate name to be changed from Scientific, Inc. to Transtech Industries, Inc.

28. Inmar or one or more of its predecessor corporation(s), including Sparrow Realty, Inc. and Inmar Realty, Inc., held title to some or all of the Site during the late 1960s and throughout 1970s. Inmar is the owner of record and holds title to the Site at present.

Waste Shipments to the Site

29. Air Products & Chemicals, Inc. arranged with SCP for disposal or transport for disposal of hazardous substances and pollutants or contaminants, including RCRA listed waste, dimethyl sulfate and flammable wastes from its facility located in Piscataway, N.J.

30. Air Products & Chemicals, Inc. arranged with SCP for disposal or transport for disposal of hazardous substances and pollutants or contaminants, including New Jersey special waste by

clay, waste xylene and silicon gel from its facility located in Middlesex, N.J.

31. Allied Corporation arranged with SCP for disposal or transport for disposal of hazardous substances and pollutants or contaminants, including spent alpha pinene liquids, methanol water(a.k.a., Halar water), chloroform, trichlortrifluroethane, sodium carbonate, sodium hydroxide, sodium trichloroacetate and potassium carbonate from its facility located in Elizabeth, N.J.

32. Allied Corporation arranged with SCP for disposal or transport for disposal of hazardous substances and pollutants or contaminants, including phosphoric acid, methanol and methyl phosphate from its facility located in Haledon, N.J.

33. Ashland Chemical Co. arranged with SCP for disposal or transport for disposal of hazardous substances and pollutants or contaminants, including resin solution, corrosive waste, butyl phenol, actyl phenol, flammable waste, semi-liquid acrylics, flammable phenolic resins, phenols and solid corrosive butyl from its facility located in Fords, N.J.

34. Ashland Chemical Co. arranged with SCP for disposal or transport for disposal of hazardous substances and pollutants or contaminants, including mixed solvents, flammable resin solution, flammable liquids, waste solvents, resin solutions, filter clays and plasticizer, resin, monomer, and elastomer residues from its facility located in Newark, N.J.

35. Ashland Chemical Co. arranged with SCP for disposal or transport for disposal of hazardous substances and pollutants or contaminants, including New Jersey Special waste by manifest, mixed solvents and flammable waste from its facility located in Binghampton, N.Y.

36. Benjamin Moore & Co. arranged with SCP for disposal or transport for disposal of hazardous substances and pollutants or contaminants, including New Jersey special waste by manifest, mixed solvents, flammable waste, spent mineral spirits, liquid wastes, mixed solvents and flammable wastes from its facility located on Lister Avenue in Newark, N.J.

37. Borden, Inc. arranged with SCP for disposal or transport for disposal of hazardous substances and pollutants or contaminants, including, New Jersey special waste by manifest, mixed solvents, flammable waste, organic solvent mixtures, printing ink pigments, toluol, lactol, ethyl alcohol, ethyl acetate, isopropyl acetate, isopropyl alcohol and printing ink solvent washes from its facility located in Fairlawn, N.J.

38. Borden, Inc. arranged with SCP for disposal or transport for disposal of hazardous substances and pollutants or

contaminants, including dirty organic solvents, toluol, lactol, printing ink solvent washes, ethyl alcohol, ethyl acetate, isopropyl acetate, isopropyl alcohol and nitrocellulose from its Fabric Leather Division facility located in Glen Cove, N.Y.

39. Chemical Pollution Control, Inc. arranged with SCP for disposal or transport for disposal of hazardous substances and pollutants or contaminants, including New Jersey special waste by manifest, acid solutions, flammable waste, corrosive waste, ester alcohol, ether, ketones, glycol residues and mixed solvents from its facility located in Bayshore, N.Y.

40. Ciba-Geigy Corporation arranged with SCP for disposal or transport for disposal of hazardous substances and pollutants or contaminants, including New Jersey special waste by manifest, flammable waste, mixed solvents, toluene, liquids in tank trucks, sulfuric acid, acetic acid, solvents, alcohols, toluene, IPA and mixed solvents from its facility located in Cranston, R.I.

41. Congoleum Industries, Inc. arranged with SCP for disposal or transport for disposal of hazardous substances and pollutants or contaminants, including dirty solvents, liquids and sludges from its facility located in Marcus Hook, Pa.

42. Custom Chemicals Co., Inc. arranged with SCP for disposal or transport for disposal of hazardous substances and pollutants or contaminants, including New Jersey special waste by manifest, flammable waste, and mixed solvents from its facility located in Elmwood Park, N.J.

43. Delaware Container Co., Inc. arranged with SCP for disposal or transport for disposal of hazardous substances and pollutants or contaminants, including New Jersey special waste by manifest, flammable waste, still bottoms and mixed solvents from its facility located in Chester, Pa.

44. Dri-Print Foils, Inc. arranged with SCP for disposal or transport for disposal of hazardous substances and pollutants or contaminants, including New Jersey special waste by manifest, flammable waste, mixed solvents, mixed chemicals and liquids from its facility located in Rahway, N.J.

45. E.I. DuPont de Nemours & Co. arranged with SCP for disposal or transport for disposal of hazardous substances and pollutants or contaminants, including New Jersey special waste by manifest, flammable waste, mixed solvents, esters, alcohols, ether, ketones, ethylene glycol and glycol residues from its facility located in Parlin, N.J.

46. E.I. DuPont de Nemours & Co. arranged with SCP for disposal or transport for disposal of hazardous substances and pollutants or contaminants, including miscellaneous solvents,

chemical wastes, acid wastes, waste organic dyes, toxic adhesives, toxic waste formic, flammable and toxic waste trylen and waste solvents from its Chestnut Run facility located in Wilmington, Dela.

47. E.I. DuPont de Nemours & Co. arranged with SCP for disposal or transport for disposal of hazardous substances and pollutants or contaminants, including aluminum chloride, spent acid, carbon tetrachloride, insecticides, halogenated aliphatics, halogenated aromatics, ketones and aldehydes from its facility located in Grasselli, N.J.

48. E.I. DuPont de Nemours & Co. arranged with SCP for disposal or transport for disposal of hazardous substances and pollutants or contaminants, including flammable waste, waste butyl alcohol, acetone, oils and oil sludges, ketones, aldehydes, metyl isobutyl ketone and wastes with a flashpoint below 100 degrees Fahrenheit from its facility located in Willow Bank, Pa.

49. Exxon Company, U.S.A. arranged with SCP for disposal or transport for disposal of hazardous substances and pollutants or contaminants, including, isopropyl alcohol, spent caustic soda, sodium sulfonate, slop oil emulsion, spent white oil, maleic slop, chlorinated solvents and other wastes classified by the company as "H" for hazardous from its facility located in Bayway, N.J.

50. Exxon Company, U.S.A. arranged with SCP for disposal or transport for disposal of hazardous substances and pollutants or contaminants, including muriatic acid, spent acid, trimethyl propane, valeric acid, hydrochloric acid, haptenoic acid and caprylic acid from its facility located in Bayonne, N.J.

51. Fitchburg Coated Products Co. arranged with SCP for disposal or transport for disposal of hazardous substances and pollutants or contaminants, including, waste chemicals, waste solvents, scrap solvents, waste mixed chemicals and approximately 175,000 gallons of liquid waste.

52. GAF Corporation arranged with SCP for disposal or transport for disposal of hazardous substances and pollutants or contaminants, including New Jersey special waste by manifest, flammable waste, mixed solvents, organic wastes, latex residue, oil and oil sludges and emulsions, alkaline solutions, latex waste water, still bottoms, package lab chemicals and acid solutions from its facility located in Johnson City, N.Y.

53. Ganes Chemicals, Inc. arranged with SCP for disposal or transport for disposal of hazardous substances and pollutants or contaminants, including New Jersey special waste by manifest, flammable waste, corrosive waste, ignitible waste, pharmaceutical waste, still bottoms, alkaline solutions, mixed solvents and

halogenated organic solvents from its facility located in Pennsville, N.J.

54. General Electric Company arranged with SCP for disposal or transport for disposal of hazardous substances and pollutants or contaminants, including New Jersey special waste by manifest, flammable waste, corrosive waste, mixed solvents, scrap water distillates, still bottoms, wire essence, varnish, cyclohexane, xylene, toluene, formaldehyde, cresylic acid, benzoyl peroxide, solvent wastes, acetone, methyl ethyl ketone, epoxy, styrene, naphtha and phenol from its facility located in Schenectady, N.Y.

55. General Motors Corporation arranged with SCP for disposal or transport for disposal of hazardous substances and pollutants or contaminants, including New Jersey special waste by manifest, flammable waste, mixed solvents, oil and oil sludges and emulsions from its facility located in Tarrytown, N.Y.

56. Harmon Colors Corporation arranged with SCP for disposal or transport for disposal of hazardous substances and pollutants or contaminants, including New Jersey special waste by manifest, corrosive waste, acid solutions, process liquid wastes, methanol, phosphoric acid and filtrate from production of quinacridone organic pigments from its facility located in Haledon, N.J.

57. Hoffman LaRoche, Inc. arranged with SCP for disposal or transport for disposal of hazardous substances and pollutants or contaminants, including acetone, benzene, toluene, ammonia, sulfates, sodium hydroxide, sodium chloride, sodium acetate, sulfanilic acid and liquid wastes from its facility located in Belvidere-White Township, N.J.

58. Hoffman LaRoche, Inc. arranged with SCP for disposal or transport for disposal of hazardous substances and pollutants or contaminants, including acetone, tar, toluene, toluol, methanol, zinc wastes, alcohols, isopropanol, diethyl sulfate, methylene chloride, ethyl acetate, lithium bromide, lithium hydroxide, pyridene salts, propionic acid, methyl ethyl ketone, isopropyl alcohol, chlorobenzene, zinc salts, mercury, acetic anhydride, xylene, formamide, hydrogen cyanide, hydrogen chloride, solvents, benzyl chloride, heptane, hexane, liquid wastes with hazardous vapors, liquid wastes with explosive hexane vapors, hydrochloric acid, ferrous chloride, triethylamine, petroleum oils, phenol, ethyl alcohol, copper salts, chlorinated waste solvents, methyl chloride, pentane, ethyl ether, aniline, methylene chloride, methylheptanone and liquids with a flash point of 40 degrees Fahrenheit from its facility located in Nutley, N.J.

59. Inmont Corporation arranged with SCP for disposal or transport for disposal of hazardous substances and pollutants

or contaminants, including waste resins from its facility located in Belvidere, N.J.

60. Lederle Laboratories arranged with SCP for disposal or transport for disposal of hazardous substances and pollutants or contaminants, including New Jersey special waste by manifest, flammable waste, mixed solvents, combustible liquids, waste methanol, toluene, benzene, butyl alcohol, solvents, alcohols, drummed solvent waste, acetone, hexane, ethyl alcohol, methyl alcohol and miscellaneous wastes from pharmaceutical production operations from its facility located in Pearl River, N.Y.

61. Lederle Laboratories arranged with SCP for disposal or transport for disposal of hazardous substances and pollutants or contaminants, including organic wastes and miscellaneous wastes from its facility located in Bound Brook, N.J.

62. Lederle Laboratories arranged with SCP for disposal or transport for disposal of hazardous substances and pollutants or contaminants, including, waste solvents and alcohols from its facility located in Danbury, Ct.

63. Lederle Laboratories arranged with SCP for disposal or transport for disposal of hazardous substances and pollutants or contaminants, including at least one trial load of miscellaneous waste from its facility located in Stanford, Ct.

64. M & T Chemicals, Inc. arranged with SCP for disposal or transport for disposal of hazardous substances and pollutants or contaminants, including New Jersey special waste by manifest, flammable waste, mixed solvents, still bottoms, waste solvents and waste water from its facility located in Huntington, N.Y.

65. Marisol, Inc. arranged with SCP for disposal or transport for disposal of hazardous substances and pollutants or contaminants, including methyl ethyl ketone, acetone, kerosene, chloroethane, trichloroethane, naptha and methylene chloride from its facility located in Middlesex, N.J.

66. Merck & Company arranged with SCP for disposal or transport for disposal of hazardous substances and pollutants or contaminants, including New Jersey special waste by manifest, flammable waste, mixed solvents, mixed waste solvents, and solvents NOI from its facility located in South Danville, Pa.

67. Merck & Company arranged with SCP for disposal or transport for disposal of hazardous substances and pollutants or contaminants, including New Jersey special waste by manifest, flammable waste, toxic waste and mixed solvents from its facility located in Rahway, N.J.

68. Merck & Company arranged with SCP for disposal or transport for disposal of hazardous substances and pollutants or contaminants, including acetone and liquid chemicals NOI from its facility located in Elkton, Va.

69. Minnesota Mining & Manufacturing Co. arranged with SCP for disposal or transport for disposal of hazardous substances and pollutants or contaminants, including waste solvents, methyl ethyl ketone, toluene, RCRA characteristic hazardous waste (ignitable waste), material contaminated with waste solvents and iron oxide sludges fom its facility located in Freehold, N.J.

70. Mobil Chemical Company arranged with SCP for disposal or transport for disposal of hazardous substances and pollutants or contaminants, including New Jersey special waste by manifest, flammable waste, paints and pigments, residues, phosphorus, oxychloride, varnish base solvents, cresylic acid, waste hydrocarbons, methyl ethyl ketone, phenols, alpha-olefin, flammable liquids, poisonous waste, corrosive waste, removers, extenders, pigments and fillers from its facility located in Edison, N.J.

71. Nepera, Inc. arranged with SCP for disposal or transport for disposal of hazardous substances and pollutants or contaminants, including New Jersey special waste by manifest, corrosive waste, ammonia water, alkaline solution, organic waste, waste waters, liquid wastes, methanol, isopropyl alcohol, sodium hydroxide, organic ammonia water, 2 AP waste water caustic, 2 amino pyridene, 2,6-diamino pyridene, toluene, pyrodine, picoline, picolinonitrile, dimethyl formamide, tar residues, carbon black and oxylinic acid from its facility located in Harriman, N.Y.

72. New England Laminates Co., Inc. arranged with SCP for disposal or transport for disposal of hazardous substances and pollutants or contaminants, including New Jersey special waste by manifest, flammable waste, mixed solvents and waste water from its facility located in Stamford, Ct.

73. Perk Chemical Co., Inc. arranged with SCP for disposal or transport for disposal of hazardous substances and pollutants or contaminants, including New Jersey special waste by manifest, flammable waste, mixed solvents, spent flammable waste, NOS waste and liquid waste in tankers from its facility located in Elizabeth, N.J.

74. Permacel arranged with SCP for disposal or transport for disposal of hazardous substances and pollutants or contaminants, including New Jersey special waste by manifest, flammable waste and mixed solvents from its facility located in New Brunswick, N.J.

75. Pfizer, Inc. arranged with SCP for disposal or transport for disposal of hazardous substances and pollutants or contaminants, including New Jersey special waste by manifest and flammable waste from its facility located in Groton, Ct.

76. Randolph Products Co. arranged with SCP for disposal or transport for disposal of hazardous substances and pollutants or contaminants, including New Jersey special waste by manifest, flammable waste, mixed solvents, still bottoms, alkyd resins, urea resins, melamine resins, pigments, lead and zinc from its facility located in Carlstadt, N.J.

77. Reliance Universal, Inc. arranged with SCP for disposal or transport for disposal of hazardous substances and pollutants or contaminants, including New Jersey special waste by manifest, flammable waste, mixed solvents, paint and pigment residues, dirty solvents, aliphatic hydrocarbons, aromatic hydrocarbons, xylene, toluene, ketones, esters, alcohols, acetates and paint wastes from its facility located in Somerset, N.J.

78. Revlon, Inc. arranged with SCP for disposal or transport for disposal of hazardous substances and pollutants or contaminants, including New Jersey special waste by manifest, flammable waste, esters, alcohols, ethers, ketones, glycol residues, mixed solvents, spent acetone, ignitible waste, 1,1,1-trichloroethane, petroleum naphtha and stillbottoms from its facility located in Edison, N.J.

79. Schenectady Chemicals, Inc. arranged with SCP for disposal or transport for disposal of hazardous substances and pollutants or contaminants, including New Jersey special waste by manifest, flammable waste, ignitible waste, plasticizers, resins, monomers, waste water, phenols, ignitible liquid resins, waste process liquid distillates and resin manufacturing waste from its facility located at 10th and Congress Street, Schenectady, N.Y.

80. Smithkline Beckman Corporation arranged with SCP for disposal or transport for disposal of hazardous substances and pollutants or contaminants, including aqueous waste, waste solvents, caustic scrubber water, xylol solvent, drum residues, mercaptan wastes, still residues and CPT solution from its facilities located on Spring Garden Street, Philadelphia, Pa. and Swedeland Road, Upper Merion, Pa.

81. Union Carbide Corporation arranged with SCP for disposal or transport for disposal of hazardous substances and pollutants or contaminants, including methylene chloride, pilot plant solvent, polysulfone chloride, peroxide, phenols, toluene, resins, waste oils, waste hydrocarbons, acetone, waste solvents, latex residues, elastomer residues, alkaline solutions, catalyst residues, halogenated organics, still bottoms and lab bottles with solvents from its facility located in Bound Brook, N.J.

82. Union Carbide Corporation arranged with SCP for disposal or transport for disposal of hazardous substances and pollutants or contaminants, including mixed solvents, latex residues and waste latex solids from its facility located in Somerset, N.J.

83. Upjohn Corporation arranged with SCP for disposal or transport for disposal of hazardous substances and pollutants or contaminants, including aqueous waste, sodium cyanide and wastes from production of pharmaceuticals from its facility located in North Haven, Ct.

84. Western Electric Company arranged with SCP for disposal or transport for disposal of hazardous substances and pollutants or contaminants, including New Jersey special waste by manifest, flammable waste, mixed solvents, waste solvents, butyl carbitol, trichlorethylene, acetone, xylene, isopropyl alcohol, butyl acetone, perchlorethylene, tetramethyl, ammonium hydroxide, methyl pyrolidinine, methylene chloride, cresylic acid, n-butyl acetate, J100 photoresist, dichlorobenzene and chlorinated napthalenes from its facility located in Allentown, Pa.

85. Western Electric Company arranged with SCP for disposal or transport for disposal of hazardous substances and pollutants or contaminants, including New Jersey special waste by manifest, flammable waste, paint and pigment residues, combustible wastes and solid mixtures from its facility located in Kearny, N.J.

86. Each of the Respondents noted above arranged with SCP for disposal or transport for disposal of hazardous substances, and pollutants or contaminants, from one or more of their facilities at various periods of time during at least various times in the 1970s.

87. Some of the Respondents visited the Site to observe waste handling operations. Some of the Respondents transported liquids, solids and/or sludges, which may have contained hazardous substances, to the Site in vehicles owned and/or operated by themselves or their agents.

88. SCP transported to and disposed of some or all of the hazardous substances, pollutants and contaminants which it received from each of the Respondents, as noted in Paragraphs 29 through 85, above, at the SCP Site.

89. Many of the hazardous substances, pollutants and contaminants removed from each of the Respondents' facilities, as noted in Paragraphs 29 through 85, above, were discovered in soil and groundwater at the Site and in the water column and sediment of Peach Island Creek.

EPA Site Assessment and Response Actions

90. On September 1, 1983, the Site was listed on the National Priorities List 40 CFR Part 300, Appendix B, which was issued pursuant to Section 105(a)(8)(B) of CERCLA, 42 U.S.C. §9605(a)(8)(B).

91. At various times after listing on the NPL, EPA undertook studies at or relating to the Site. A group of potentially responsible parties also undertook studies relating to the Site pursuant to the Consent Order and the Unilateral Order, as noted in Paragraphs 121 and 122, below. The results of those studies revealed that numerous hazardous substances, pollutants and contaminants exist in the soils and groundwater at the Site and in the water column and sediment in Peach Island Creek.

92. Many hazardous substances, pollutants and contaminants were detected in the soils at the Site. (See Attachment 2). Many of the hazardous substances shown on that Attachment are the same or similar to those received by SCP from many of the Respondents, as referred to in paragraphs through above.

93. Many hazardous substances, pollutants and contaminants were detected in the water table aquifer at the Site. (See Attachment 3). Many of the hazardous substances shown on that Attachment are the same or similar to those received by SCP from many of the Respondents, as referred to in paragraphs through above.

94. Many hazardous substances, pollutants and contaminants were detected in the till aquifer at the Site. (See Attachment 4). Many of the hazardous substances shown on that Attachment are the same or similar to those received by SCP from the many of Respondents, as referred to in paragraphs through above.

95. Some hazardous substances, pollutants and contaminants were detected in the bedrock aquifer at the Site. (See Attachment 5). Many of the hazardous substances shown on that Attachment are the same or similar to those received by SCP from many of the Respondents, as referred to in paragraphs through above.

Characteristics of Chemicals Found at the Site

96. None of the VOCs, pesticides, PCBs, and semi-volatile compounds found at the Site originate from natural sources. Many of these chemicals, however, exist at grossly elevated levels at the Site.

97. Many of the chemicals at the Site, for example, PCBs, chloroform, 1,2-dichloroethane, methylene, chloride, and trichloroethylene, are known carcinogens in animals.

98. Many of the chemicals at the Site, for example, PCBs, chloroform, 1,2-dichloroethane, methylene, chloride, and trichloroethylene, are probable or suspected carcinogens in humans.

99. Some of the chemicals at the Site, for example, vinyl chloride, arsenic, and benzene, are known carcinogens.

100. Many of the chemicals at the Site are known to cause acute and/or chronic health effects, other than cancer, in humans who may be exposed to such chemicals.

101. Some of the chemicals at the Site can readily volatilize into the atmosphere under the conditions which prevail at the Site.

102. Many of the chemicals found at the Site are highly mobile in groundwater.

103. Some of the chemicals found at the Site can enhance the mobility of other contaminants in groundwater when mixed with these other contaminants.

104. Many of the chemicals found at the Site are toxic to various aquatic organisms at various levels.

Actual and Potential Migration Into the Groundwater

105. The soils and water table aquifer in the FOU zone are the most highly contaminated media at the Site. They contain a wide array of hazardous substances and pollutants and contaminants which are often found in industrial wastes.

106. Maximum Contaminant Levels ("MCLs") are enforceable drinking water standards which have been established for certain substances under the Federal Safe Drinking Water Act and/or the New Jersey State Safe Drinking Water Act. The purpose of MCLs is to reduce adverse effects on human health when waters are consumed.

107. Many chemicals were detected in the water table aquifer, including various forms of PCBs, nineteen VOCs, semi-volatile compounds and pesticides.(See Attachment 3). Many of these compounds are known or suspected human and/or animal carcinogens. Others are associated with a variety of human health problems.

these compounds are known or suspected human and/or animal carcinogens. Others are associated with a variety of human health problems.

108. Many of the chemicals in the water table aquifer exist at levels which far exceed the applicable MCLs which have been established for such substances. The geometric mean concentration for each of the following contaminants in this aquifer now exceeds the relevant Federal and/or State MCLs established for such contaminants: benzene(a known human carcinogen); chlorobenzene; 1,2,-dichloroethane; 1,2,-trans-dichloroethane; methylene chloride; xylene; vinyl chloride(a known human carcinogen); tetrachloroethylene; 1,1,1-trichloroethylene; and trichloroethylene.

109. Many of the chemicals found in the water table have migrated from the water table down into the till aquifer beneath it. Many of these chemicals now exist in the till aquifer at the levels which exceed the Federal or State MCLs established for such contaminants. The geometric mean concentration for the following contaminants in the till aquifer now exceeds the relevant Federal and/or State MCLs established for these contaminants: chlorobenzene; chloroform; 1,2,-dichloroethane; 1,1dichloroethylene; 1,2,-trans-dichloroethane; methylene chloride; vinyl chloride (a known human carcinogen); tetrachloroethylene; 1,1,1-trichloroethylene; and trichloroethylene.

110. The till aquifer is hydraulically connected to the bedrock aquifer. Pump tests performed by some potentially responsible parties during the RI/FS revealed the hydraulic connection between these two(2) aquifers.

111. Some chemicals have migrated from the water table and till aquifers into the bedrock aquifer under the Site. Some of these chemicals now exist in the bedrock aquifer at levels which exceed the Federal or State MCLs established for such contaminants. The geometric mean concentration of the following contaminants in the bedrock aquifer now exceeds the relevant Federal and/or State MCLs established for these contaminants: chloroform; 1,2,-dichloroethane; trichloroethylene; and vinyl chloride.

112. The bedrock aquifer is being used as a potable water supply by the public in the region.

113. Vinyl chloride is a known human carcinogen. The other three(3) chemicals in Paragraph 111, above, are probable [Class B2] human carcinogens. All four chemicals are in the bedrock aquifer. All four can induce cancer(s) in animals.

114. The presence of the chemicals referred to in Paragraphs 108 through 111 above, has rendered waters in the aquifers under the Site unsuitable for potable purposes.

Actual and Potential Migration Into Peach Island Creek

115. Peach Island Creek is a tidal waterway which adjoins the Site. The water table aquifer at the Site flows into Peach Island Creek.

116. Many hazardous substances, pollutants and contaminants were detected in the water column in Peach Island Creek near the Site. (See Attachment 6). Many of the hazardous substances in the water column are the same or similar to those which exist at the Site. Many of the hazardous substances in the water column are the same or similar to those received by SCP from many of the Respondents as referred to in Paragraphs 29 through 85 above.

117. Many hazardous substances, pollutants and contaminants were detected in the sediment in Peach Island Creek near the Site. (See Attachment 7). Many of the hazardous substances shown on that Attachment are the same or similar to those which exist at the Site. Many of the hazardous substances shown on that Attachment are the same or similar to those received by SCP from the Respondents as referred to in Paragraphs 29 through 85 above.

118. The water table aquifer discharges many chemicals from the Site into Peach Island Creek. Many of these chemicals can be either acutely or chronically toxic to aquatic organisms.

119. Some chemicals entering Peach Island Creek from the Site, e.g., PCBs, are known to be capable of bioaccumulating or biomagnifying in certain aquatic organisms.

EPA Enforcement Actions

120. On or about May 17, 1985, EPA sent general notice letters to all of the Respondents, except for the Hoffman LaRoche Company, informing them of their potential liability relating to the Site.

121. On September 30, 1985, many of the Respondents entered into an Administrative Order on Consent Index No. II-CERCLA-50114 ("the Consent Order") with EPA for the performance of the RI/FS at the Site.

122. On October 23, 1985, some of the Respondents were issued a Unilateral Order Index No. II CERCLA - 60102 ("the Unilateral Order") pursuant to Section 106(a) of CERCLA which mandated that they fully participate in the efforts of, and cooperate with, those parties who entered the Consent Order with EPA for performance of the RI/FS.

123. On October 23, 1985, EPA issued an Administrative Order (Index No. II CERCLA-50115) under Section 106(a) of CERCLA to Inmar, which mandated that Inmar conduct certain response actions at the Site, including removal and proper disposal of some tanks containing hazardous substances, which were located at the Site. Inmar failed to comply with the terms of that order.

124. On January 14, 1987, the United States filed a Complaint against Inmar (Civil Action No. 87-144) in the U.S. District Court in Newark, New Jersey demanding payment of EPA costs and penalties from Inmar ("the Inmar action").

125. On May 2, 1988, a Consent Decree was entered in the U.S. District Court in Newark, New Jersey settling the Inmar action. By its terms, Inmar was required to pay the government $545,000., including more than $300,000. in penalties, for settlement of the claims of the government in the Inmar action.

126. In February 1988, EPA sent general notice letters to nineteen (19) additional potentially responsible parties for the Site, including the Hoffman LaRoche Company, informing them of their potential liability relating to this Site.

127. On or about March 1990, EPA received Final RI/FS documents from the potentially responsible parties who participated in performing the RI/FS studies under the Consent Order and Unilateral Order.

128. On May 19, 1990, EPA, pursuant to Section 117 of CERCLA, 42 U.S.C. §9617, published the Proposed Plan for the Interim Remedy and published notice of the availability of the draft RI/FS Report and the Administrative Record for the Interim Remedy. EPA also informed the public that it had an opportunity to comment on the Proposed Plan. On June 5, 1990, EPA held a public meeting in Carlstadt, New Jersey concerning the Interim Remedy.

129. On September 14, 1990, EPA issued the ROD which described and selected the Interim Remedy for the Site.

130. In September 1990, EPA issued letters to all of the potentially responsible parties for the Site, including all of the Respondents, which informed them of the decision by EPA not to utilize the special notice procedures set forth in Section 122(e) of CERCLA, 42 U.S.C. §9622(e), for matters relating to the implementation of the Interim Remedy at the Site. This letter also provided the reasons for that EPA decision.

131. On September 17, 1990, EPA formally notified the State of New Jersey that it intended to issue an Administrative Order to the Respondents to perform the Interim Remedy at the Site.

CONCLUSIONS

132. Each Respondent is a "person" within the meaning of that term as defined in Section 101(21) of CERCLA, 42 U.S.C. §9601(21).

133. The Site is a "facility" within the meaning of that term as defined in Section 101(9) of CERCLA, 42 U.S.C. §9601(9).

134. Many of the chemicals and contaminants identified in the FINDINGS section, above, and detected at the Site, as shown in Attachments 2 through 7, are "hazardous substances" within the meaning of that term as defined in Section 101(14) of CERCLA, 42 U.S.C. §9601(14).

135. The disposal of hazardous substances at the Site, the presence of hazardous substances in the soil and the subsequent migration of hazardous substances from the soils into the aquifers beneath the Site and the potential migration of all such substances away from the Site as described in the FINDINGS, are "releases" and "threatened releases" within the meaning of those terms as they are defined in Section 101(22) of CERCLA, 42 U.S.C. §9601(22).

136. Each such release of each hazardous substance from the Site referenced in Paragraph 135 above, is also an "actual . . . release of a hazardous substance from a facility" as that phrase is used in Section 106(a) of CERCLA, 42 U.S.C. §9606(a).

137. The potential for further migration of hazardous substances from the Site into the aquifers beneath the Site and the potential migration of each such substance away from the Site constitutes a "threatened release of a hazardous substance from a facility" within the meaning of that phrase as it is used in Section 106(a) of CERCLA, 42 U.S.C. §9606(a).

138. The release of hazardous substances into the soil and their subsequent migration into the groundwater pose a threat to human health. The potential for such contaminated groundwater to migrate further from the Site poses a threat to public and private wells downgradient of the Site. The construction of residences or commercial establishments and installation of new public or private wells near the Site would increase this threat to human health.

139. Each Respondent is a person who is liable under one or more subsections of Section 107(a) of CERCLA, 42 U.S.C. §9607(a), for conditions at the Site and for response costs incurred by EPA relating to the Site.

DETERMINATIONS

140. Based upon the FINDINGS set forth above, EPA has determined that the release and threatened release of hazardous substances into the environment at and from the Site may present an imminent and substantial endangerment to the public health or welfare or the environment within the meaning of Section 106(a) of CERCLA, 42 U.S.C. §9606(a).

141. A response action of the type contemplated by the NCP in 42 C.F.R. §300.435 is required at the Site to prevent and/or mitigate any actual and/or potential threat of harm to human health or welfare or the environment caused by the release and threatened release of hazardous substances from the Site.

142. The response actions described in and which are the subject of the ROD are cost effective and are consistent with achieving a permanent remedy at the Site and are consistent with all other requirements of Section 121 of CERCLA, 42 U.S.C. §9621.

ORDER

143. Based on the foregoing FINDINGS, CONCLUSIONS and DETERMINATIONS, it is hereby ordered that Respondents undertake and complete all response actions needed to implement all components of the Interim Remedy for the Site, including installation of a slurry wall around the Site, extraction of groundwater from the FOU zone and off-Site disposal of the extracted groundwater, in accord with all of the terms, provisions and schedules stated in the Statement of Work ("SOW"), in this Order and in all Attachments hereto. It is further ordered that the Respondents, at a minimum undertake and complete each of the following specific components of the Interim Remedy:

a. Installation of a slurry wall along the perimeter of the entire 5.9 acre SCP Site which will extend from the surface of the Site, down into the clay-silt layer located at the lower boundary of the FOU zone (approximately 15 to 20 feet below the surface of the Site);

b. Installation of a groundwater collection and extraction system in the FOU zone which will be capable of lowering and maintaining the water table in this zone at the lowest practicable level;

c. Extraction of groundwater from the FOU zone to achieve and continuously maintain the water level in this zone at the lowest practicable level;

d. Transportation of all groundwater extracted from the FOU zone to an appropriate facility (or facilities) located off Site;

e. Proper treatment and disposal of all groundwater extracted from the FOU zone at an appropriate facility (or facilities) located off Site;

f. Installation of a temporary infiltration barrier across the entire surface of the Site which will be capable of minimizing the entry of precipitation into the FOU zone;

g. Operation and maintenance of the groundwater collection and extraction system, and maintenance of the infiltration barrier and maintenance of the slurry wall surrounding the Site to ensure continued achievement of the objectives of the Interim Remedy identified in the ROD;

h. Maintenance of fencing and provision of other Site security measure(s), as deemed necessary by EPA, until such time that the final remedy is in place; and

i. Implementation of a program for groundwater and surface water monitoring to measure the presence within and the potential migration of hazardous substances from the FOU zone, until such time that the final remedy is in place.

144. Each Respondent must undertake and complete the response actions listed in Paragraph 143, above, and any and all activities required of the Respondents under the terms of this Order as a joint effort.

145. Each Respondent shall advise EPA, in writing, of its commitment to comply with the terms of this Order within seven (7) calendar days of the effective date of this Order.

146. Within fourteen (14) days of the effective date of this Order, the Respondents shall designate a person who shall be known as the Facility Coordinator and who shall be a professional engineer licensed by the State of New Jersey. The Respondents shall submit the name, title, address and telephone number of the Facility Coordinator and a description of the person's professional experience and qualifications for this position in writing to the EPA Project Manager for the Site and the state contact in this Order. The Facility Coordinator shall have sufficient technical and managerial expertise and shall be qualified to adequately oversee and manage all aspects of the work contemplated by this Order.

147. The Facility Coordinator shall be responsible for oversight of the implementation of this Order, including all

activities required herein. He shall also be the primary contact person for communications with EPA and State technical personnel. All communications transmitted by EPA to the Facility Coordinator shall be deemed received and be notice to the Respondents.

148. EPA reserves the right to reject any Facility Coordinator proposed by the Respondents, if it judges the person to be unqualified for that position. In that event, EPA will notify Respondents in writing and establish a time period in which the Respondents shall submit the name and qualifications of a new candidate.

149. Copies of all correspondence and writings from EPA to the Respondents shall be directed to the Facility Coordinator. The Facility Coordinator shall not be an attorney nor shall he or she be a legal counsel for or providing any legal services of any type for any one or more of the Respondents. A qualified Facility Coordinator shall be available for contact by EPA throughout all phases of the Work required by this Order and until all the actions required by this Order are completed.

150. The Respondents shall initiate implementation of the SOW requirements on the date that this Order becomes effective. The SOW requires, among other things, that the Respondents' submit plans and reports for EPA review and approval.

151. The Respondents shall submit to EPA and the State of New Jersey monthly written progress reports by the tenth day of each month following the effective date of this Order. For each calendar month, or part thereof, the monthly progress reports shall include, at least, the following:

a. A description of all actions which have been taken toward achieving compliance with this Order during the prior month;

b. A description of any violations of this Order and other problems encountered during the prior month;

c. A description of all corrective actions taken in response to any violations or problems which occurred during the prior month;

d. The results of all sampling, test results and other data received or generated by the Respondents during the course of implementing the Work during the prior month. Such results shall be validated in accordance with the approved Quality Assurance Project Plan developed in conformance with the SOW;

e. A description of all plans, actions and data which are scheduled for the next two months;

f. A quantified estimate of the percentage of the work required by this Order which has been completed as of the date of the progress report, and

g. An identification of all delays encountered or anticipated that may affect the future schedule for performance of the Work, and all efforts made by Respondents to mitigate delays or anticipated delays.

152. If EPA approves any plan, report or other submission required by this order, EPA will so inform the Respondents in writing. Any approval by EPA of any plans, reports or other submissions which are not in writing shall not be effective or binding upon EPA.

153. If EPA disapproves any plan, report or other item required to be submitted to EPA for approval pursuant to this Order, Respondents shall have fourteen (14) days from the receipt of notice of such disapproval to correct any deficiencies and resubmit the plan, report or other item for approval, unless a longer period is specified in the notice. Respondents must address each of EPA's comments and resubmit the revised plan, report or other item along with the required changes to EPA within the period set forth above.

154. In the event any comment on any report required pursuant to this Order is not adequately addressed by Respondents in the subsequent submittal, the Respondents shall be deemed in violation of this Order.

155. In the event that a subsequent submittal or portion thereof is disapproved, EPA retains the right to amend or develop the submittal. The Respondents shall implement any such submittal as amended or developed by EPA. Notwithstanding any notice of disapproval, the Respondents shall, to the extent required by EPA, proceed to take all actions required by the nondeficient portions of the submission.

156. Respondents shall provide the EPA Project Manager at least seven (7) days advance notice of the commencement of any field activities undertaken pursuant to the terms of this Order at the Site .

GENERAL PROVISIONS

157. a. All work plans, reports and any other documents required to be submitted to EPA under this Order shall be sent by mail to the following addresses:

157. a. All work plans, reports and any other documents required to be submitted to EPA under this Order shall be sent by mail to the following addresses:

4 copies: Chief, New Jersey Compliance Branch
Emergency and Remedial Response Division
EPA Region II
26 Federal Plaza - Room 747
New York, N.Y. 10278

Att: Project Manager - SCP Carlstadt Site

4 copies: Chief, Bureau of Federal Case Management
Division of Hazardous Waste Management
N.J. Department of Environmental Protection
401 East State Street
Trenton, New Jersey 08625

Att: Case Manager - SCP Carlstadt Site

b. In the event that EPA requests from the Respondents additional copies of any work plan, report or other document, the Respondents shall provide a reasonable number of copies, as requested.

158. All documents produced by the Respondents and submitted to EPA in the course of implementing this Order shall be available to the public unless Respondents claims they are confidential using the procedures described in 40 C.F.R. Part 2. If such a claim is made with regard to any of the records or any other documents produced by the Respondents or their contractors, EPA will release such documents in accordance with the procedures stated in 40 C.F.R Part 2, Subpart B and Section 104(e)(7) of CERCLA, 42 U.S.C. §9604(e)(7). No sampling, hydrological, geological, soil chemical analyses, groundwater quality data, or information specified under Section 104(e)(7)(F)(i)-(viii) of CERCLA, 42 U.S.C. §9604(e)(7)(F), relating to the Site shall be considered confidential.

159. The Respondents shall allow EPA, EPA contractors and agents, and DEP and DEP contractors and agents to have access to all records relating to implementation of the work under this Order. All such records shall be stored at a location in the State of New Jersey which is accessible to EPA officials. The Respondents shall make all such records available for any EPA official to review and copy within three days after receiving a request from EPA for access to such records. All employees and contractors of the Respondents who engage in any activity under this Order shall be available to and shall cooperate with EPA and EPA agents and contractors.

the Respondents shall provide the EPA Project Manager, in writing, with the name and address of the person who will be charged with retaining these records and the location in which the records will be kept during this ten year period. Any and all such records are to be made available to EPA upon request during any business day throughout that period of time.

161. The Respondents shall allow unimpeded access to all areas of the Site and into all structures thereon by all EPA and DEP representatives, agents, contractors and consultants. The Respondents shall permit such EPA and DEP agents to enter and move about the Site at will at all times and shall allow such officials or agents of EPA and DEP to undertake any observations, response actions or any other activities which EPA elects to undertake at the Site at EPA's option.

162. a. The Respondents shall use their best efforts to obtain all access agreements which are needed to implement the terms of this Order. "Best efforts" includes, but is not limited to, reasonable efforts to identify, locate and contact (in writing) the owner of the property, seeking judicial assistance, and paying money in consideration of access.

b. If, after such best efforts, the Respondents cannot obtain a particular access agreement which is required for implementation of the terms of this Order, the Respondents shall so notify the EPA Project Manager in writing and shall specify the real property in question and the efforts which the Respondents have taken to obtain entry onto the property in question. If EPA determines that access onto any such property is needed to implement any of the terms of this Order, EPA will make reasonable efforts to facilitate access by the Respondents to that property. However, the Respondents shall continue to implement all other terms of this Order which, in the view of EPA, can still be implemented regardless of the failure to obtain access to any property.

163. All reports, schedules, deliverables and other writings required under the terms of this Order shall, upon approval by EPA, be deemed incorporated into this Order and may be enforced as any other provision in this Order.

164. No informal advice, guidance, suggestions or comments by EPA or DEP officials shall be construed to relieve Respondents of any of their obligations under this Order.

165. All contractors and subcontractors the Respondents plan to use for work at the Site must have adequate liability coverage or must be indemnified by the Respondents for any and all liability which may result from any activities at and on the Site pursuant to this Order.

166. The Respondents may request that EPA approve modifications to EPA-approved reports, schedules, deliverables and other writings required under the terms of this Order at any time during the implementation of the work required by this Order. Any and all such modifications to this Order must be approved in a writing signed by the Chief of the New Jersey Compliance Branch, EPA-Region II.

a. EPA shall have sole authority to make any such modifications and EPA may unilaterally make any such modifications at any time prior to the completion of all work required by this Order.

b. EPA alone shall be the final arbiter of all issues and disputes concerning: i) any reports, schedules, deliverables and other writings required under the terms of this Order which EPA approves or which the Respondents proposes under the terms of this Order, and ii) all work which shall be required or performed under this Order and/or under any reports, schedules, deliverables and other writings required under the terms of this Order which EPA approves pursuant to the terms of this Order.

167. All work conducted pursuant to this Order shall be performed in accordance with prevailing professional standards.

168. All activities carried out by the Respondents pursuant to this Order shall be done in accordance with all applicable Federal, state and local laws, regulations, ordinances and other requirements.

169. All activities conducted by the Respondents pursuant to this Order shall comply with the requirements of CERCLA, the NCP, and all applicable OSHA regulations for worker health and safety as found in 29 C.F.R. §1910 et seq., and elsewhere.

170. All disposal of material conducted by the Respondents pursuant to performing any work under this Order shall comply with all provisions of the Solid Waste and Disposal Act, 42 U.S.C. §6901 et seq., the Toxic Substances Control Act ("TSCA"), 15 U.S.C. §2601 et seq., all regulations promulgated pursuant to both RCRA and TSCA and all applicable State laws and regulations.

171. The Respondents shall be responsible for obtaining all necessary Federal, State and local permits, licenses and other authorizations needed to carry out the work required by this Order.

172. The United States Government and any and all agencies thereof shall not be liable for any injury or damage to any person or property resulting from any acts or omissions of the

Respondents and any employees, contractors, or agents of the Respondents while performing any activity related to this Order; the United States Government and any and all agencies thereof shall not be a party to any contract entered into by Respondents in carrying out any activity pursuant to this Order, and the Respondents shall not represent to anyone that the United States Government or any agency thereof is or may be a party to any such contract.

173. The Respondents shall use their best efforts to avoid or minimize any delay or prevention of performance of its obligations under this Order.

174. Upon the completion of all of the work required by this Order, the Facility Coordinator designated by the Respondents shall notify the EPA Project Manager and the state contact in writing by registered mail that all of the work and construction activities required by this Order have been completed.

175. Any failure by the Respondents to carry out any terms of this Order may result in EPA unilaterally taking or funding the actions required under this Order, pursuant to Section 104 of CERCLA, 42 U.S.C. §9604.

176. Any failure by the Respondents to comply with any provision in this Order or any provision or schedule in the SOW pursuant to the terms of this Order, including, but not limited to, any of the following acts or omissions will be considered a violation of this Order:

a. Failure to identify a qualified Facility Coordinator to EPA within fourteen (14) days of the effective date of this Order; or

b. Failure to submit a signed written commitment to perform the work required by this Order to EPA within seven (7) calendar days of the effective date of this Order; or

c. Failure to comply with any schedule(s) stated in this Order or established pursuant to this Order;

177. If the Respondents fail to perform any of the actions set forth in this Order, or otherwise violates the terms of this Order, EPA may elect to:

a. Demand that the Respondents cease work at the Site; and/or

b. Use Federal funds to complete the work required by the Order; and/or

c. Initiate an action against the Respondents under Sections 106(b), 107(a) and/or 107(c) of CERCLA, 42 U.S.C. §§9606(b), 9607(a), and/or 9607(c), respectively; and/or

d. Take any other actions authorized under Federal laws or regulations.

178. Nothing stated in this Order shall preclude EPA from taking any additional enforcement actions, and/or any actions as it may deem necessary for any purpose, including the prevention or abatement of an imminent and substantial endangerment to the public health or welfare or the environment arising at or in the vicinity of the Site.

179. Nothing contained in this Order shall affect the right of EPA to initiate an action for civil penalties against any entity, including the Respondents, pursuant to Section 106(b) of CERCLA, 42 U.S.C. §9606(b).

180. Nothing contained in this Order shall affect the right of EPA to pursue an action against any entity, including the Respondents (or any other responsible party), pursuant to Section 107(a) of CERCLA, 42 U.S.C. §9607(a), for recovery of any costs incurred by EPA relating to this Order and/or for any other response costs which have been incurred or will be incurred by the United States relating to the Site.

181. Nothing contained in this Order shall affect the right of EPA to enter into any Consent Decree, to issue any Consent Order or to issue any other Orders unilaterally to the Respondents (or to any other responsible parties for the Site) pursuant to CERCLA, or to require the performance of any additional response actions which EPA determines are necessary for the Site.

182. Nothing contained in this Order is intended to indicate that other potentially responsible parties identified by EPA for the Site should not participate and/or fund and cooperate with the Respondents in performing the work required by this Order.

183. Nothing contained in this Order shall act as a bar to, a release of, a satisfaction of, or a waiver of any claim or cause of action which EPA has at present or which EPA may have in the future against any entity, including the Respondents, on any matters relating to the Site.

184. Nothing contained in this Order shall be construed to mean that the Respondents are the only potentially responsible parties with respect to the release and threatened release of hazardous substances at the Site.

185. Nothing contained in this Order shall affect any right, claim, interest, defense, or cause of action of EPA or the Respondents with respect to any entity which is not a party to this Order. Nothing in this Order constitutes a decision by EPA on preauthorization or on any approval of funds under Section 111(a)(2) of CERCLA, 42 U.S.C. §9611(a)(2).

186. Nothing contained in this Order shall preclude the State of New Jersey or any agency or department thereof from taking or maintaining any enforcement action or litigation relating to the Site, including issuing any directive pursuant to State law relating to the Site.

OPPORTUNITY TO CONFER

187. The Respondents may confer with EPA to discuss this Order, including its applicability, the FINDINGS upon which the Order is based, the appropriateness of any action or activity required to be undertaken herein, or any other relevant issues or contentions which the Respondents may have with regard to this Order. A conference date has tentatively been scheduled as noted in the transmittal letter which accompanies this Order. Any rescheduling of the conference date must be such that the conference occurs before the effective date of this Order. This conference is not and shall not be deemed to be an adversary proceeding or part of a proceeding to challenge this Order.

EFFECTIVE DATE

188. This Order shall become effective at 12:01 AM on the 18th day of October 1990.

IT IS SO ORDERED:

U.S. ENVIRONMENTAL PROTECTION AGENCY

DATE: 9/28/90

Constantine Sidamon-Eristoff
Regional Administrator
U.S. Environmental Protection Agency
Region II
New York, New York 10278